

# The Brunner trial in Germany—a different picture emerges

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On September 6, the Munich District Court will announce its verdict in the so-called Brunner trial. The prosecution and defence delivered their closing arguments on August 24.

Those charged are 18-year-old Markus S. and 17-year-old Sebastian L. The prosecution has called for Markus S. to get the maximum sentence of 10 years in juvenile prison for second degree murder, and for Sebastian L. to receive an eight-year term for grievous bodily harm with fatal consequences. Originally, the indictment against both youth had been murder.

The death of 50-year-old businessman Dominik Brunner, who was killed on September 12, 2009, following a violent confrontation with the two accused, has made national and regional headlines for months.

Brunner came into conflict with the two youths after they had threatened a group of children on a train, seeking to take 15 euros from them. A deadly confrontation ensued at Munich-Solln train station. Brunner died as a result. The youth were found hiding in bushes nearby.

The investigators initially presented the case as if Brunner had been attacked without warning and with lethal intent, after he had placed himself protectively in front of the students. Brunner was said to have been “kicked to death” by the two accused.

Regarding Brunner’s conduct, the prosecutor, Laurent Lafleur, said shortly after the crime, “What is particularly disturbing about the case is that the man did everything right”. Bavarian Interior Minister Joachim Herrmann, a member of the Christian Social Union (CSU), expressed himself similarly, saying, “The murder is particularly tragic, because the man behaved in an exemplary manner”.

The victim was built up by the media as the “hero of Solln” and was given a number of posthumous

honours, including the Federal Cross of Merit for showing moral courage. On the other hand, the two young people were presented as cold-blooded murderers from the underclass. *Bild* newspaper described the accused as a “killer pack”.

In the campaign that followed, many politicians called for tougher penalties and other law-and-order measures. For example, Munich City Council Chairman Hans-Ulrich Pfaffmann of the Social Democratic Party (SPD) called for the case to be pursued with “zero tolerance” and for the two to be punished “to the full extent of the law”.

Bavarian Justice Minister Beate Merk demanded a tightening of the juvenile criminal code, raising the maximum penalty from 10 to 15 years. He called for 18-year-old offenders to be dealt with solely on the basis of adult criminal law, and for video surveillance of public places to be increased.

The trial before the Munich district court has provided a considerably more nuanced picture of the events of September 12, 2009, that deviates significantly from the original version presented by the investigating authorities. This gives rise to the suspicion that the prosecution concealed or misrepresented facts in order to promote a law-and-order campaign.

Testimony revealed that Brunner himself, not the youth, dealt the first blow. According to eye-witness testimony, it was Brunner who provoked the fight after the situation had already died down.

The driver of the train reported that Brunner had said to him after getting off, “Now there’s going to be some trouble back here”. He then took off his jacket and backpack, and, according to another witness, adopted a boxing stance.

The defendants had not approached Brunner directly,

but had passed by him quite “normally” as they walked towards the stairway. “Mr. Brunner then took two steps towards the two young men and hit out”, said the train driver. “In my opinion”, he added, “Brunner was the aggressor”.

According to another witness, Brunner told the two accused before he struck them, “This is what you wanted”. Giving evidence in court, a 56-year-old lawyer said Brunner had acted like a practitioner of martial arts. “Blow, kick, blow, kick”, is how the woman described his actions.

In its indictment, the prosecution described quite inaccurately how Brunner had “died as a result of the attack by the accused”. Although there is no doubt that the two young people violently kicked Brunner on several occasions, and that he died as a result, it had been kept quiet until the trial that Brunner was suffering from an abnormal enlargement of the heart, something about which he himself knew nothing.

The medical examiner came to the view that he would not have been able to cope with the stressful conflict situation and may have survived if not for the heart condition.

The trial also threw some light onto the circumstances of the two youth. As so often in such cases, they both come from a difficult social environment.

As a child, Sebastian L. suffered poor health and was developmentally retarded. His parents had separated when he was four years old, and he then lived with his mother, who increasingly succumbed to alcohol. He had great difficulty at school and skipped classes, several times failing to progress to the next grade. He finally left high school without graduating. He had begun to drink at 13 and first took hard drugs at 14.

Early on, at the age of 11, experts came to the conclusion that Sebastian was mentally ill. He also said of himself that he tended to become aggressive under the influence of drugs or alcohol. He had repeatedly come into conflict with the law for theft and robbery.

In the case of Markus S., much remained in the dark about his problematic family relations, since he refused to address the court or speak to psychiatrists. But what is certain is that he is extremely attached to his older brother, who is in prison for drug offences. He also had massive addiction problems. Two hours after the crime, he still had a 1.46 percent blood alcohol level and traces of cannabis in his blood.

The Brunner case confirms that the current state of social decline, in which the needs of broad masses are disregarded, increasingly leads to brutal acts.

In responding to offences caused by the government’s policy of imposing social cuts on wide sections of the population, the justice system, the government and the media exaggerate the extent of crimes and throw overboard all the modest legal reforms introduced in the 1970s aimed at the social rehabilitation of offenders, and especially juvenile offenders.

The response of the political elite is to mount further attacks on democratic rights. Their motto is to punish the perpetrators more harshly, rather than seeking to reintegrate them into society. Instead of preventing crime by improving the social environment, the imprisonment of offenders, possibly for life, is now high on the agenda.



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